

SHLESINGER, ARKWRIGHT & GARVEY LLP

PATENT, TRADEMARK & COPYRIGHT LAW

JAMES E. SHLESINGER
JOSEFINO P. DE LEON
MICHAEL M. ZADROZNY*
TERRENCE L.B. BROWN*
DANIEL T. EARLE

ESTABLISHED 1950

1420 KING STREET

SUITE 600

ALEXANDRIA, VIRGINIA 22314

GEORGE A. ARKWRIGHT (RET.)
GEORGE A. GARVEY (RET.)

TELEPHONE: (703) 684-5600

FAX: (703) 836-5288

FAX: (703) 836-5698

EMAIL: PATENTS@SAGLLP.COM

OF COUNSEL
B. EDWARD SHLESINGER, JR.

*ADMITTED TO A BAR OTHER THAN VIRGINIA

OUR REF. No.

R-5364-1

February 2, 2006

U.S. Patent and Trademark Office
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, Virginia 22313-1451

Attention: Ms. Jean Brown
Administrator
Trademark Trial and Appeal Board

Re: Petition for Cancellation
CHAIM LOWENSTEIN, Petitioner, v.
MORRISON DISTRIBUTION &
MARKETING, INC., Registrant
In re Matter of
Trademark: 24-7 COFFEES
Registration No: 2,848,710
Registered: June 1, 2004
Our Case R-5364-1

Dear Ms. Brown:

Accompanying this letter is a Petition for Cancellation, submitted in duplicate, together with a check in the amount of \$300.00 to cover the government filing fee. If the amount of the check is insufficient, the U.S. Patent and Trademark Office is authorized to charge the deficiency to Deposit Account No. 19-2105, and to notify the undersigned in due course. It is requested that a Cancellation proceeding be commenced against the above-identified trademark registration.

Communications with Petitioner should be directed to Petitioner's above-identified attorneys. Any telephone calls



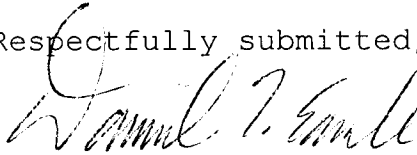
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regarding this letter should be directed to Daniel T. Earle at
(703) 684-5600.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Daniel T. Earle".

Daniel T. Earle
SHLESINGER, ARKWRIGHT & GARVEY LLP
1420 King Street, Suite 600
Alexandria, Virginia 22314
(703) 684-5600

DTE/ds
Enclosures

R-5364-1

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

CHAIM LOWENSTEIN,	:	In re Matter of Trademark
	:	Registration No. 2,848,710
Petitioner,	:	Registered: June 1, 2004
v.	:	
	:	
MORRISON DISTRIBUTION &	:	Cancellation No:
MARKETING, INC.	:	
	:	
Registrant.	:	

PETITION FOR CANCELLATION

Petitioner, CHAIM LOWENSTEIN, an individual and citizen of the United States of America, located and doing business at Unit 119, 2030 South 3rd Street, Jacksonville, Florida 32250, believes that he will be damaged by registration of the mark shown in Registration No. 2,848,710, and hereby petitions to cancel the same.

The grounds for cancellation are as follows:

1. Since long prior to the filing date of the Registration, and any use date claimed therein, Petitioner has offered, promoted, advertised, and sold, coffee and related goods under the trademark, 24 7 COFFEE.

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 TRADEMARK TRIAL AND APPEAL BOARD

2. Petitioner has used the mark, 24 7 COFFEE, for coffee and related goods since at least as early as 1998. By virtue of such use, Petitioner's mark is favorably known and is a valuable asset of Petitioner. The mark, 24 7 COFFEE, is a symbol of considerable good will and recognition built up by Petitioner through his use of the mark in commerce in the United States.

3. Petitioner has filed an application to register the mark, 24 7 COFFEE - CLOSEST TO THE ROAST - TAKING AMERICA ONE CUP AT A TIME, for coffee, green coffee beans, teas, and beverages, application Serial No. 78/537,563, filed on December 23, 2004. Petitioner has been advised that Registrant's mark, 24-7 COFFEES, is a basis for refusal to register Petitioner's pending application under Section 2(d) of the Trademark Act. The advice is set forth in an Office Action from the United States Patent and Trademark Office, dated August 3, 2005, rejecting Petitioner's application on grounds of a likelihood of confusion with Registrant's mark.

4. In view of the similarity between Petitioner's mark and Registrant's mark, and the related nature of the goods and services of the respective parties, Registrant's trademark so resembles Petitioner's trademark, previously used in the

United States, and not abandoned, as to be likely to cause confusion, or to cause mistake, or to deceive, to the irreparable damage of Petitioner.

5. Upon information and belief, Registrant, Morrison Distribution & Marketing, Inc., is the owner of Registration No. 2,848,710, for the mark, 24-7 COFFEES, for coffee, filed on September 9, 2002, with a claim of first use of the mark of October 12, 2003, long after Petitioner's first use of his mark, 24 7 COFFEE, for Petitioner's goods.

6. Under the procedures set forth in the Trademark Manual of Examining Procedure, the presence of Registration No. 2,848,710, on the Register, will continue to bar registration of Petitioner's mark, in spite of the fact that Petitioner's use of the mark is senior to Registrant's alleged use, and such refusal of registration damages Petitioner.

7. Registrant's continued use of the mark, 24-7 COFFEES, for coffee, is likely to cause confusion in the minds of the purchasing public between the goods of Petitioner, using the mark, 24 7 COFFEE, and the goods of Registrant, bearing the mark, 24-7 COFFEES.

Serial No. 78/537,563

WHEREFORE, Petitioner prays that said registration,
Registration No. 2,848,710 be cancelled and that this Petition
for Cancellation be sustained in favor of Petitioner.

Respectfully submitted,

CHAIM LOWNSTEIN

Date: Feb. 2, 2006

By: 

Daniel T. Earle
James E. Shlesinger,
Attorneys for Petitioner

SHLESINGER, ARKWRIGHT &
GARVEY LLP
1420 King Street, Suite 600
Alexandria, Virginia 22314
(703) 684-5600

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